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Public Hearing Date:	January 15, 2008
Land Use Action Date:	March 18, 2008
Board of Aldermen Action Date:	April 7, 2008
90-Day Expiration Date:	April 14, 2008

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Candace Havens, Chief Planner
Jean Fulkerson, Principal Planner 

DATE: January 15, 2008

SUBJECT: **#391-07 JOHN NIGRO/PACKARD COVE ASSOCIATES** petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to locate a for-profit dance studio in an existing building and to waive dimensional and setback requirements for parking, light poles, lighting, interior landscaping and to allow parking in an existing off-site facility, at 105 RUMFORD AVENUE, Ward 4, on land known as Sec 41, Blk 35, Lots 1A, 14 and a portion of lot 5 in a district zoned MANUFACTURING. Ref: Sec Special Permit #19-06 and 30-24, 30-23, 30-5(b)(2),

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis that may be useful in the special permit decision-making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

EXECUTIVE SUMMARY

The Balera Ballroom School of Dance and the owner of 105 Rumford Avenue are seeking approval of a special permit to locate a for-profit educational use in an existing building in a Manufacturing District. The subject site is located in the northwest corner of Newton, near the City's border with Waltham and is currently developed with a 5,000 sq. ft. open span structure and includes a 30-stall parking facility, which connects via an internal driveway to Riverway Avenue. In addition to the use request, the petitioners are seeking dimensional waivers from the parking requirements and an amendment to Board Order #19-06 to locate 16 off-site parking spaces for Balera Ballroom School of Dance in the parking facility at 130 Rumford Avenue across the street. There are no existing Board Orders concerning 105 Rumford Avenue.

The surrounding area consists of manufacturing, warehouse, and storage facilities. The use of this former manufacturing building by the dance school is not expected to have any adverse impacts on the surrounding neighborhood. There are no residential dwellings in the immediate area of the proposed dance school. Existing traffic in this part of Newton is not a concern and no significant increases in traffic will be generated by the proposed dance school that would negatively affect the surrounding streets. Site design issues in the parking facility should not present a safety problem to vehicles or pedestrians if properly managed, such as proper signage to direct drivers and pedestrians to off-site parking during occasional special events. Overall, the use as proposed, should function well at this site.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board of Aldermen should consider whether:

- the proposed for-profit dance studio is an appropriate use for the site in a Manufacturing Zoning District;
- the proposed use will have any adverse impacts on abutters and neighboring properties;
- the proposed hours of operation will have any adverse impacts on traffic flow along Rumford Avenue;
- based on the schedule of the dance studio classes, the available parking is adequate to meet the demands of the facility during peak periods; and
- the lack of interior landscaping and other waivers to the parking facility design will have any adverse impact on the use or the neighboring properties.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Site

The site is located in the northwest part of the City, accessed from a signalized intersection off of Lexington Street at Rumford Avenue. The petitioners' lot contains approximately 25,261 sq. ft. of land and is a flat parcel. The site is improved with a one-story, 5,000 sq. ft. building, previously used as storage and warehousing space.

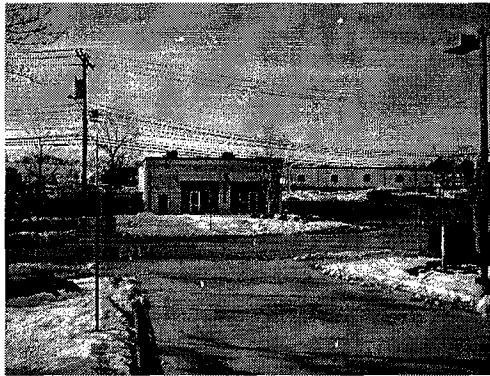


Figure 1. 105 Rumford Avenue



Figure 2. 130 Rumford Avenue

B. Neighborhood and Zoning

The subject site is surrounded by other warehouse and office type uses, all zoned as Manufacturing. To the east is the City's Rumford Avenue waste disposal center, the studios of WNYN and a commercial tree service. To the west and north, and extending into the City of Waltham, are other office or manufacturing buildings on commercially zoned parcels. There are no residential dwellings within the immediate vicinity of the property.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property owner and the business owner are co-petitioners in the special permit request to allow this for-profit educational use. From Monday through Friday, the dance school will be open for teaching between 9:00 a.m. and 10:00 p.m. From 9:00 a.m. to 6:00 p.m., the studio will provide private instruction in 45-minute intervals with no more than eight instructors and 16 students. On Saturdays, the studio will be open from 9:00 a.m. to 11:00 p.m. Balera owners also expect to provide "open studios" on Saturday evenings from 7:00 p.m. to 11:00 p.m. for its students, which will be limited to 20 persons.

The petitioners will be making minor renovations to the interior to create a small office, and separate men's and women's restrooms. The main open area of the building will be given over to the dance floor. A small viewing area will be located on the mezzanine level.

With no more than approximately 20 students and their instructors during regular hours, the dance school is of relatively low intensity. The petitioners and their attorney stated that children would make up only 5 % of the overall business. If the school is focused mainly on adult students, there is unlikely to be extensive pick-up and drop-off of students. During

the daytime hours, only a handful of students will be on the site each hour and the proposed use should have very little impact on the surrounding neighborhood.

The petitioners will not be making any changes to the present site design to accommodate the proposed use. Although this building was designed for warehouse use, it has a street presence similar to a commercial building and provides good visibility for the dance school. This is not a building hidden in the back corner of a manufacturing zone, but a renovated structure with an improved parking facility that is easy to find. The area of the parking lot where the driveway width is just 18 feet (where 20 feet is required) is flat with good visibility. The reduced driveway width should not present a safety problem.

B. Parking

The majority of the students of the dance school will park in the 30-space parking lot, which the CZCO has determined, provides adequate parking for all classes and events other than showcase performances. During the daytime hours, the use will generate approximately 4-8 vehicles per hour (provided there are no children's classes). Between 7:00-10:00 p.m. in the evening hour, that number will increase to approximately 20 to 30 vehicles per hour. However, during these hours, other area businesses will be closed for the night. Access to the site is appropriate given the number of vehicles involved. If children's classes or camps are proposed in the future, a parking and drop-off plan should be reviewed by the Director of Planning and Development and the City Traffic Engineer. The Planning Department does not believe that children's classes will necessarily have a negative impact, but would like the opportunity to make that evaluation.

On special occasions, (estimated 6-12 times per year) the studio will host "showcase performances" in the evening. There will be no permanent seating in this space and folding chairs will be set up for special events. Events such as this require a total of 46 parking spaces, assuming there will be no more than 75 people in attendance; the petitioners can only provide 30 spaces on-site. On those occasions, the petitioners propose overflow parking for patrons across the street at 130 Rumford Avenue at the Packard Cove Office Park and request approval of 16 off-site spaces. The parking facility at 130 Rumford Avenue meets the criteria for off-site parking in Section 30-19(f)(2) because it is within 500 ft. of the lot of the principal use and is commonly owned with 105 Rumford Avenue.



Figure 4. Exit Drive from 130 Rumford Ave.

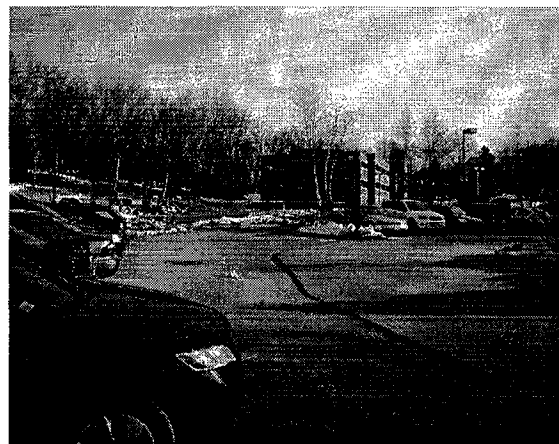


Figure 3. Parking facility, 130 Rumford Ave., construction at rear.

The property at 130 Rumford Avenue includes a 51,200 sq. ft. office building; a second office building of 32,500 sq. ft. is currently under construction (Board Order #19-06). The office park currently has approximately 184 parking stalls, which will increase to a capacity of 277 spaces, once construction and associated parking is completed (expected in 2008). Construction on the second office building at 130 Rumford Avenue has reduced available parking by approximately 25%. However, there should still be ample parking available on Saturday evenings for showcase performances while the construction is completed. The property owner of the sites provided a letter, dated January 2, 2008 (*SEE ATTACHMENT "B"*), stating that 85%-90% of the parking lot is available during off-peak hours and available for use by the Balera School of Dance.

The petitioners also must provide a site plan that shows the location of 16 off-site spaces and evidence of an off-site parking agreement between the owners of the dance studio and the owners of 130 Rumford Avenue, as required under Section 30-19(f)(2). The purpose of the agreement is to assure that the parking spaces promised to the dance studio are not removed at some point in the future because of changes at 130 Rumford Avenue.

NOTE: It appears that the building at 105 Rumford Avenue has been vacant for a period and the parking lot has been used by employees of other area businesses, although there are no formal agreements in place. Once the school is open and holding classes, these vehicles will not be able to use this facility for parking.

C. Pedestrian Safety and Lighting.

There is no sidewalk or pathway leading pedestrians out of the parking facility at 130 Rumford Avenue to the sidewalk that runs along Rumford Avenue. Since special events will be taking place in the evening, the safety of pedestrians is a concern. The lighting at 130 Rumford is approved for less than 1-ft. candle and the petitioners are asking for a waiver to allow less than 1-ft. candle of lighting on a small portion of the parking facility at the subject site. On a recent site visit, Planning Department staff noted that there are streetlights on Rumford Avenue, including one located at the eastern corner of the property at 105 Rumford Avenue, almost directly across from the exit drive at 130 Rumford Avenue. There is also a parking facility light beside the exit driveway at 130 Rumford Avenue. Overall, the existing lighting appears satisfactory for assuring pedestrian safety.

The existing parking facility at 105 Rumford Avenue does not have five-foot setback on the westerly side yard and the parking lot extends to the edge of the property. The petitioners are asking to install two light poles within the parking lot on the westerly property line. The placement of the light poles will reduce the depth of three parking stalls and also may be subject to damage by vehicles parking or during snow removal.

D. Signage.

The internal driveway at Packard Cove Office Park has a one-way circulation pattern that is entered from the access drive closest to Lexington Street. By the time a driver realizes that parking is unavailable at the subject site, it will be too late to enter 130 Rumford Avenue

without turning around and doubling back. Temporary informational and directional signing could address his issue and also provide identification of the site.

The Planning Department staff is concerned about the safety of pedestrians walking from 130 Rumford Avenue to the subject site during showcase performances. On special performance evenings, the petitioners should provide temporary signage to direct pedestrians and to inform drivers in the area that pedestrians will be crossing the street.

E. Landscaping and Screening

The petitioners are asking to waive all internal landscaping requirements for the parking facility. A parking facility of this size would require 497 sq. ft. of internal landscaping. Perimeter landscaping already in place along Rumford Avenue totals 3,396 sq. ft. and provides ample plantings, although it provides little buffering of the view of the surface parking from the street or shading of the lot. The petitioners do not intend to install perimeter landscaping in that area of the parking facility where it extends up to the property line as it would reduce the amount of available parking for the site.

IV. COMPREHENSIVE PLAN

As a for-profit educational use, Balera Ballroom School of Dance more closely resembles a commercial use than an institutional use. The *Newton Comprehensive Plan* adopted by the Board of Aldermen in December 2007, points to a trend in the City of recycling of older industrial structures for other land uses. One of the best examples of this trend is the redevelopment of the City's former incinerator site at 130 Rumford Avenue into a successful and expanding office park. The conversion of the subject structure into a for-profit educational just across the street from the former incinerator site is not out of context for this neighborhood or for the City of Newton. Balera School of Dance is likely to add some vitality to an otherwise quiet area of Newton.

IV. TECHNICAL REVIEWS

A. Dimensional Controls

According to the Chief Zoning Code Official, plans submitted by the petitioners indicate that the use will be entirely located within the existing commercial building, last altered in 1992 for warehousing and distribution use. No expansions or additions to the building envelope are contemplated and, as a result, the Dimensional Requirements for Commercial Districts triggered by Section 30-15 do not apply.

B. Traffic and Parking

The table below depicts how the project compares with the requirements of Section 30–19 of the Ordinance:

Section 30 –19	Ordinance	Proposed
# of Parking Stalls for all Proposed Uses	46 (based on 75 seats* ¹)	30, plus 16 off-site at 130 Rumford Ave.
Min. Stall Width	19 ft.	19 ft,
Min Stall Length	21 ft.	21 ft.
Min Driveway Width	20 ft. (two-way)	18 ft.
Min. Aisle Width	24 ft.	24 ft.
Handicap Stall	12 ft.	8 ft.
Front Setback	5 ft.	5 ft.
Side Yard Setback	5 ft.	0 ft.
Maneuvering Space for End Stall	5 ft.	5 ft.
Bicycle Parking	3 spaces	3 spaces

C. Other Department Comments

The City Traffic Engineer and the Associate City Engineer expressed no concerns with the petitioner's proposal.

D. Summary of Zoning Relief Requested

Based on the Chief Zoning Code Official's written determination (*SEE ATTACHMENT "A"*) the petitioners are seeking relief from or approvals through the following sections of the Zoning Ordinance:

- Section 30-5(b)(2) for approval of a for-profit dance studio use in a Manufacturing zone
- Section 30-19(h)(2)c) for waiver to reduce required minimum width of one HP space from 12 ft to 8 ft. while using common HP maneuvering aisle
- Section 30-19(m) for exceptions to the parking requirements including:
 - Section 30-19(h)(1), 30-15 Table 1, for approval of a dimensional waiver to reduce parking side setback from 5 ft. to 0 ft. for parking stalls on west lot line
 - Section 30-19(h)(2)(d)4) for waiver to reduce entry drive from 20 ft. to 18 ft.
 - Section 30-19(i)(1) for waiver of various perimeter landscaping elements
 - Section 30-19(i)(2) for waiver of all internal landscaping,

¹ The petitioners have not provided a maximum attendance number to the Planning Department for showcase performances and a 75-person maximum was assumed in order for the CZCO to complete a parking analysis.

- Section 30-19(j)(1)a) waiver to reduce parking area lighting from minimum 1 ft. candle to .5 ft. candle
- 30-15 Table 3, note, for dimensional waiver to reduce parking setback from 5 ft. to 0 ft. for two new light poles along west side lot line
- Section 30-23 BO #19-06 Condition #1 to amend "Layout and Parking Plan" for the 130 Rumford Avenue designating areas of surplus parking spaces for use by 105 Rumford Avenue
- Section 30-23 approval of 105 Rumford Avenue site plan, landscape plan and lighting plan
- Section 30-24(d) BO #19-06 to amend Board Order #19-06 to allow use of parking facility at 130 Rumford Avenue for use by 105 Rumford Avenue dance school to satisfy parking requirement
- Section 30-24(d) approval of special permit authorizing a for-profit dance school consistent with related site and other applicable plans

V. SUMMARY OF PETITIONER RESPONSIBILITIES

At the public hearing the petitioners should be expected to respond to all issues raised by the Department of Planning and Development. Prior to the working session the staff requests the petitioner shall submit:

1. an off-site parking agreement between the owners of the dance studio and the owners of 130 Rumford Avenue, as required under Section 30-19(f)(2).
2. updated site plans for 130 Rumford Avenue to clearly indicate the location of 16 parking spaces that will be available for the use by the Balera Ballroom School of Dance between the hours of 6:30 p.m. to 11:30 p.m. on Saturday evenings.
3. temporary signage plan to inform patrons of showcase performances that parking is available for their use at 130 Rumford Avenue and to direct them safely across Rumford Avenue.
4. information about how the poles will be installed so that they are not damaged by vehicles parking or removing snow.
5. an agreement that any future children's classes or camp should be subject to the review and approval of a parking and drop-off plan by the Director of Planning and Development and City Traffic Engineer.

ATTACHMENTS

ATTACHMENT A: Zoning Review Memorandum, dated December 7, 2007

ATTACHMENT B: Letter Dated January 2, 2008, provided by Paul Cappasso, co-petitioner

ATTACHMENT C: Land Use Map

ATTACHMENT D: Zoning Map

ATTACHMENT E: Site Plan, 105 Rumford Avenue

Zoning Review Memorandum

ATTACHMENT A

Dt: December 7, 2007

To: John Nigro, Balera Ballroom School of Dance
Michael G. Peirce, esq., representing applicant

Fr: Juris Alksnitis, Chief Zoning Code Official
John DeToma, Chief Building Inspector

Cc: Michael Kruse, Director, Department of Planning and Development
John Lojek, Commissioner of Inspectional Services

Re: For profit dance school.

Applicant: John Nigro

Site: 105 Rumford Ave.

SBL: Section 41, Block 32, Lot 1A

Zoning: Manufacturing

Lot Area: 25,261 sq. ft. per plan.

Current use: Vacant

Prop. use: Dance School

Background:

The applicant seeks to begin a dance school for adults in commercial space previously occupied for medical supply and distribution use. As this would be a for-profit school, Section 30-5(b)(2) requires a special permit.

Incomplete submittal.

Certain information has as yet not been received, as discussed in greater detail in sections 3, 4, 6, 10, and 11 below.

Administrative determinations.

1. Section 30-5(b) provides that for-profit educational establishments may be located in all districts. Unless allowed as of right within the underlying zone in which the property is located, such establishments require a special permit from the Board of Aldermen. The subject for-profit school requires a special permit pursuant to Section 30-5(b)(2). The following analysis is based upon the submitted plans received to date, and information referenced in Plans and materials reviewed, below.
2. Plans submitted by the petitioner indicate that the use will be entirely located within the existing commercial building last altered in 1992 for warehousing and distribution use. No expansions or additions to the building envelope are contemplated. As a result no requirements pursuant to Section 30-15, Table 3, *Dimensional Requirements for Commercial Districts* are triggered.
3. Section 30-19(d)(10), (11) and (13) set out the applicable parking requirements for the required number of stalls. The applicant has provided some parking assumptions and calculations on the "Proposed Conditions" plan. Although the City requested on November 1, 2007, that the applicant provide a floor plan showing proposed use of the building including audience events, in particular indicating seating and/or

spectator areas, such a floor plan was not provided. The applicant is responsible for providing all information necessary for the completion of a zoning review.

4. The following required parking is estimated based on extrapolation of incomplete information and is not conclusive. Floor plans showing actual proposed use of all areas of the building are still needed. The property owner indicates that the building was previously occupied by a medical supply company for office, shipping, receiving, and warehousing. The applicant's attorney explains that the owner estimates the prior maximum employee number to be 20-30, based on observed near capacity use of the existing 30-space parking lot. The following is a preliminary estimate of required parking based on Section 30-19(d)(10), (11) and (13) and may change subject to receipt of noted information.

Preliminary calculation of A (proposed use):

- Ground floor & mezzanine assume office [(d)(11)]: $1710 \text{ sf}/250=7$ stalls.
- Spectator seating [(d)(13)]: $75/3 = 25$ stalls.
- Dance floor: $4,150 \text{ sf}$ less 1125sf for seating [$75@15 \text{ sf/person}$] = 3025 sf .
Service [(d)(13)] with spectator seating: $3025\text{sf}/300 = 11$ stalls.
Service without spectator seating: $4150 \text{ sf}/300 = 14$ stalls
- Employees, max. shift [(d)(13)]: $8/3 = 3$ stalls.
- **Total A:**
 - 46 stalls with spectator seating [$7+25+11+3$]
 - 24 stalls without spectator seating [$7+14+3$]

Preliminary calculation of B (est. prior use):

- Ground floor & mezzanine assume office: $1710 \text{ sf}/250=7$ stalls.
- Wholesale/shipping: $4,150 \text{ sf}/1000 = 5$ stalls
- Employees, est. max. shift: $20/4 = 5$ stalls to $30/4 = 8$ stalls.
- **Total B:** 17 - 20 stalls.

Formula result with spectator seating: $A: 46 - B: 20 + C: 30 = 56$, but not more than $A=46$ per Section 30-19(c)(2)a).

As 30 stalls are indicated on plan, there would be shortfall of 16 spaces. The applicant may seek a waiver per Section 30-19(m) subject to approval of the Board of Aldermen. Alternatively, The applicant may seek approval of off-site spaces pursuant to Section 30-19(f)(2), as discussed in Section 5, below.

Formula result without spectator seating: $A: 24 - B: 20 + C: 30 = 34$, but not more than $A=24$, per Section 30-19(c)(2)a).

In this scenario, sufficient parking would be available on site, as required by Section 30-19(f)(1).

5. Section 30-19(f)(1) requires that parking be provided on the same lot with the principal use served. While the on-site parking facility seems to accommodate on-going daytime dance teaching classes, the applicant anticipates that evening in-house performances would involve audiences of as many as approximately 75 people. In such case, insufficient spaces would be available on site. The applicant proposes to enter into an agreement with the BU-2 zoned Packard Cove Office Park site across the street at 130 Rumford Ave. for supplemental parking. The Board of

Aldermen may grant a special permit for such off-site parking pursuant to *Section 30-19(f)(2)*, provided it is located in a zone wherein the principal use would be permitted, and is located within 500 ft. of the subject site. The proposed location of the supplemental parking would meet the above requirements,

6. It is also noted that the Packard Cove Office Park is subject to Board Order #19-06, which approved certain plans pertaining to the overall site and construction of a second office building. The construction is currently underway, reducing otherwise available parking.

The owner of the Packard Cove Office Park estimates that existing parking supply has been reduced approximately 25% by current construction. In addition, the owner states, based on observation, that the reduced parking has accommodated daily parking needs, and that few vehicles (about 5-15) are found on site after 5:00 p.m.

However, no parking data have been provided in support of the above assertions. The applicant is responsible for providing a parking analysis with facts and data, which explains where and how surplus parking needed for the dance establishment would be available both during the construction period and during subsequent occupancy of the new office building. In particular, it is noted that B.O. #19-06, Condition 1(c)iii) references the following plan of record: "Layout & Parking Plan, dated December 29, 2005, revised March 29, 2006." The petitioner will need to secure Board of Aldermen approval for use of any area designated to meet required parking for 105 Rumford Ave. in accordance with this plan. This will necessitate amendment of B.O. #19-06 and amendment of the above-referenced plan.

7. *Section 30-19(h)(2)c Design of Parking Facilities -- for the physically handicapped*, requires 2 handicapped (HP) stalls in relation to the number of parking spaces on site. While 2 HP spaces are provided, it is noted that one of the two HP stalls does not meet the minimum 12 ft. width applicable to HP stalls. The applicant should provide HP stalls meeting minimum requirements, or may seek a waiver pursuant to *Section 30-19(m)*.
8. *Section 30-19(h) Design of Parking Facilities*, establishes the layout requirements applicable to parking facilities of this size. Review of records on file at ISD did not find a building permit for the currently existing parking lot. However, a GIS photographic record dated 2000 shows an entirely different parking arrangement. This suggests that the currently existing parking facility was likely constructed within the last several years and as such is subject to all requirements applicable to parking facilities having more than 5 parking spaces in effect since 1977. The applicant's attorney explains that when the current property owner acquired the property, the owner recoated and re-striped the parking area and installed the grass area in front of the building. However, the westerly drive has a width of 18 ft., which does not meet the 20 ft. minimum for two-way traffic. The applicant may wish to consider plan revisions bringing parking layout into conformance with applicable dimensional requirements, or alternatively may seek a waiver from the Board of Aldermen pursuant to *Section 30-19(m)*.
9. *Section 30-19(h)(1)* together with Table 3 establish the setback requirements pertaining to parking facilities. The concluding "Note" to Table 3 requires a minimum 5 ft. setback (unless abutting a residential or Public Use zone, in which case a

minimum of 10 ft. is required). The applicant's site is abutted on the west and south sides by Manufacturing zoned properties, and on the east by City property zoned Public Use. However, the parking stalls along the west side are located immediately at the west lot line, encroaching on the 5 ft. setback. In addition, it is noted that two new 20 ft. tall light poles are proposed at the west lot line. These are deemed structures subject to the parking setback, but are located approximately 0 ft. from the west lot line. The above necessitate waivers of the parking lot setback from the Board of Aldermen per Section 30-19(m).

10. *Section 30-19(i) Landscaping, subsections (1) and (2)* establish the applicable perimeter and interior landscaping requirements for parking facilities. In addition, *Section 30-23(b)(6)* in conjunction with *Section 30-24(a)* requires the submittal of a landscape plan, which the petitioner has not provided. While a lawn area is located in the front of the building and a planting strip along the side, these are building oriented treatments. With the exception of a well-landscaped existing planting area at the front northwest corner of the parking area, no perimeter or interior landscaping is provided. The applicant needs to submit a landscape plan indicating compliance with the above-referenced requirements. Alternatively, the applicant may submit a landscape plan, which identifies and requests all applicable waivers pursuant to Section 30-19(m), subject to approval by the Board of Aldermen.
11. *Section 30-19(j)(1), Lighting*, establishes the illumination requirements applicable to parking facilities of this size. While a hand-marked "Exterior Lighting Plan" has been submitted, it is not entirely legible. In addition, it appears that portions of the parking area would not meet the 1 foot-candle illumination level. The applicant may wish to consider adjusting the illumination level to meet applicable standards, or may alternatively request a waiver to reduce illumination, per Section 30-19(m), subject to approval of the Board of Aldermen. In addition, the petitioner is responsible for complying with *Ordinance X-142, Light Ordinance*, as set out in *Sections 20-23 through 20-28* with respect to *Light Pollution* and *Light Trespass*, respectively.
12. *Section 30-19(k), Bicycle Parking Facilities* establishes the bicycle parking requirements for parking facilities containing 20 or more stalls, as in this case. While three bicycle parking spaces are indicated, which meets the required number of spaces, no information is given as to whether a rack meeting 30-19(k)(3) standards is provided. The proposed bicycle parking placement meets 30-19(k)(2).
13. *Section 30-19(l), Off-street Loading Requirements* does not apply in this case.
14. The applicant has provided no information pertaining to signage. Should the applicant wish to identify the business establishment, he would be responsible for complying with the provisions of *Section 30-20(f), Regulation of signs in commercial districts*.
15. Various plans lack the stamp or signature of a registered professional as noted in Plans and Materials Reviewed, below. The applicant is responsible for providing stamped and signed plans not later than at the time of filing the petition with the Clerk of Board of Aldermen.
16. The petitioner is responsible for meeting the requirements of *Section 20-40, Regulation of Perimeter Fences*, to the extent applicable.

17. See "Zoning Relief Summary" below.

Zoning Relief Summary		
Ordinance		Action Required
	Building	N/A
	N/A	
	Use	
30-5(b)(2)	Approval of for profit dance school in Manufacturing Use zone	X
	Parking	
30-19(f)(2) 30-24	Approval to locate a number of required parking spaces, not yet conclusively determined, off site at 130 Rumford Ave.	Inc.
30-15, Table 3 30-19(h)(1) 30-19(m)	Approval of dimensional waiver to reduce parking side setback from 5 ft. to 0 ft. for parking stalls along west lot line.	X
30-19(h)(2)c)	Approval of waiver to reduce required minimum width of one HP space from 12 ft. to 8 ft. while using common HP maneuvering aisle.	X
30-19(h)(2)(d)(4) 30-19(m)	Approval of waiver to reduce entrance drive width from 20 ft. to 18 ft.	X
30-19(i)(1) 30-19(m)	Approval to waive various perimeter landscaping elements. (See sec.10, above)	Inc.
30-19(i)(2) 30-19(m)	Approval to waive various interior landscaping elements. (See sec. 10, above)	Inc.
30-19(j)(1)a) 30-19(m)	Approval of waiver to reduce parking area lighting from min. one foot candle to 0.5 foot candle. (See sec. 11, above)	X
30-15, Table 3, Note 30-19(m)	Approval of dimensional waiver to reduce parking setback from 5ft. to 0ft. for two new light poles along west side lot line.	X
	Sign	N/A
30-20(l)	N/A	
	Site	
30-23 BO#19-06, Cond. 1	Amend "Layout & Parking Plan " for 130 Rumford Ave. designating areas of surplus parking spaces for use by 105 Rumford Ave.	X
30-23	Approval of 105 Rumford Ave. site plan.	X
30-23	Approval of 105 Rumford Ave. landscape plan.	Inc.
30-23	Approval of 105 Rumford Ave. lighting plan	X
	Special Permit	
30-24(d) BO#19-06	Amend Board Order #19-06 to allow use of parking facility at 130 Rumford Ave. for use by 105 Rumford Ave. dance school to satisfy required number of parking spaces.	X
30-24(d)	Approval of special permit authorizing a for-profit dance school consistent with related site and other applicable plans.	X

Plans and materials reviewed

- Plan by Everett M. Brooks Co., dated September 28, 2007, entitled: "Plan of Land in Newton, MA" (area plan), stamped and signed by Bruce Bradford, Professional Land Surveyor.
- Plan by Everett M. Brooks Co., dated September 28, 2007, entitled: " Plan of Land in Newton, MA, 105 Rumford Avenue Existing Conditions", stamped and signed by Bruce Bradford, Professional Land Surveyor.

- Plan by Everett M. Brooks Co., dated September 28, 2007, entitled: "Plan of Land in Newton, MA, 105 Rumford Avenue Proposed Conditions", stamped and signed by Bruce Bradford, Professional Land Surveyor.
- Plan by Everett M. Brooks Co., dated December 29, 2005, last revised 10/23/06, entitled: "Plan of Land in Newton, MA, Packard Cove Office Park Rumford Avenue Layout & Parking Plan", stamped and signed respectively by Bruce Bradford, Professional Land Surveyor, and by Michael S. Kosmo, Professional Engineer.
- Plan by Everett M. Brooks Co., dated September 28, 2007, entitled: "Newton, MA, 105 Rumford Avenue Exterior Lighting Plan", bearing no professional stamp or signature.
- Plan provided by Landlord, undated, entitled: "105 Rumford Avenue, Newton, MA Building Foot Print", bearing neither name of any preparer nor any stamp or signature by a registered professional.
- Plan set titled "Capasso Realty Property at 105 Rumford Ave., Auburndale, MA", undated, bearing neither name of any preparer nor any stamp or signature by a registered professional consisting of:
 - First Floor Plan
 - Second Floor Plan
- Plan set titled "Balera, 105 Rumford Ave., Newton, Mass.", dated 11/24/07, prepared by D.F. Valente, Architect & Planner, 571 Main St., Rear, South Medford, MA, bearing no stamp or signature by a registered professional consisting of:
 - Sheet A-1 – General Notes, Existing & Proposed Floor Plans, Schedules
 - Sheet A-2 – Expanded Plans, Elev. & Details
 - Sheet A-3 – Elect – Tel/Data, Reflect Ceil – Light, HVAC Plan
- Board Order #194-99, August 9, 1999, approving development of Packard Cove Office Park.
- Board Order #19-06, April 18, 2006, approving construction of second office building and related site changes at Packard Cove Office Park.
- Description of Balera Ballroom School of Dance, undated, by John A. Nigro, president.

ATTACHMENT B



CAPASSO REALTY CORPORATION

Developers, Builders & Managers

49 LEXINGTON STREET • NEWTON, MA 02465

Phone: (617) 663-1121 Fax (617) 663-1122

02 January 2008

G. Michael Peirce, Esq. 60 Walnut Street Wellesley, MA 02481

Re: 105 Rumford Avenue
Off-Site Parking

The following is the information you said the City of Newton requested concerning Saturday night parking and/or off-peak parking. (Peak Parking is Monday – Friday 7:00 am – 6:00 pm)

The three largest tenants are:

American Consumer		
Credit Counseling	17,922.62	35% of building
Servicemaster	7,695.08	15% of building
Health Mgmt. Resources	4,333.00	9% of building
	29,950.70	59% of building

These three tenants represent 59% of the parking which equates to approximately 120 parking spaces. None of these or any other commercial tenants have Saturday or Sunday operating hours. Even if we added 20% back in (24 spaces) that leaves almost 100 spaces available for off-peak use.

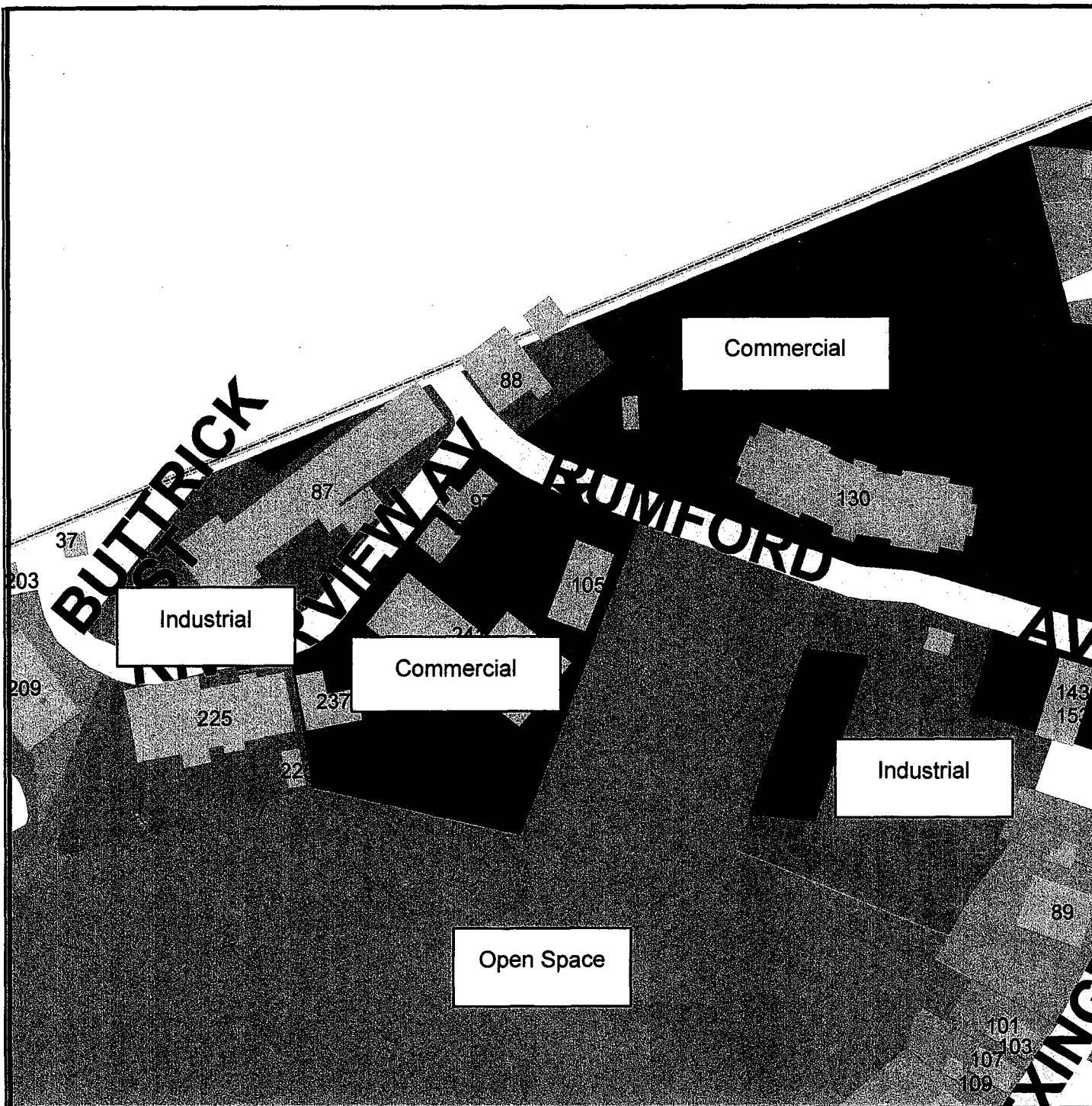
As far as I can determine from personal observation, having my office directly in front of the building with a full view of the parking lot, by 6:00 pm on a workweek the parking lot is virtually empty (maybe 15 – 20 cars). I am in my office or the surrounding area almost everyday. It's not unusual for me when driving home from one of the many restaurants in Waltham to check on the building. I can state that the parking lot is virtually empty.

I have never seen more than 15 cars at off-peak hours. That is out of a total of 174 spaces for the original building. 85% - 90% of the parking lot is available during all off-peak hours.

With my signature I hereby attest that the above is true. (I will fax an original letter with my signature).

Sincerely,

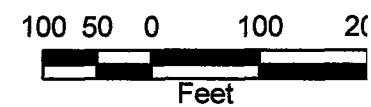
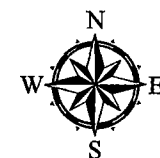
Paul E. Capasso



Land Use **105 Rumford Ave** **City of Newton**

Legend

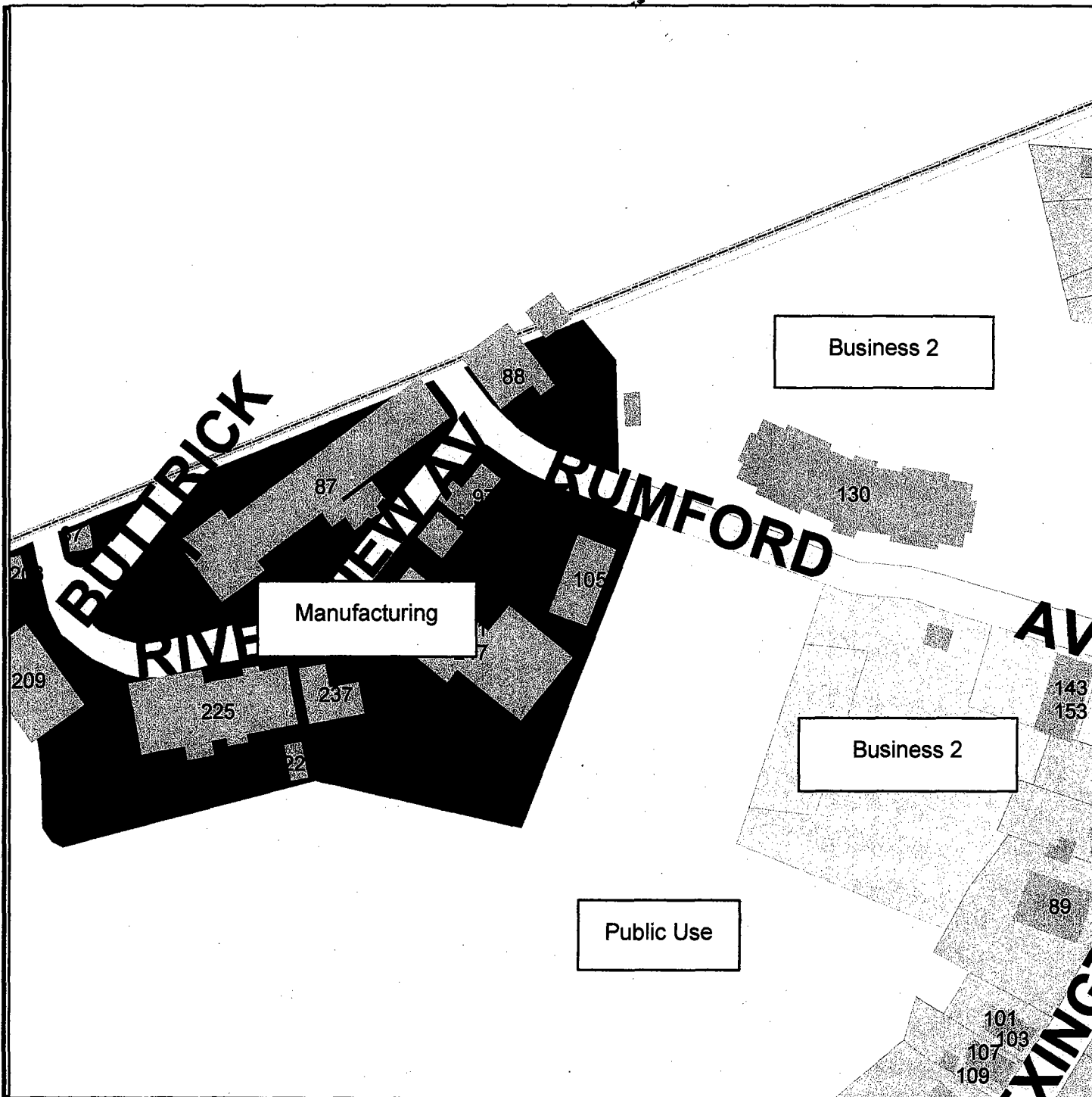
- House Numbers
- Single Family Residential
- Multifamily Residential
- Commercial
- Industrial
- Mixed Use
- Vacant Land
- Golf Course
- Open Space
- Private Educational
- Nonprofit Organizations
- Public Housing
- Tax Exempt



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee its accuracy or nor approve applications based solely on GIS data. Applicants for city permits must inquire of the relevant city department for applicable requirements.

City of Newton
 Mayor - David B. Cohen
 GIS Administrator - Douglas Greenfield

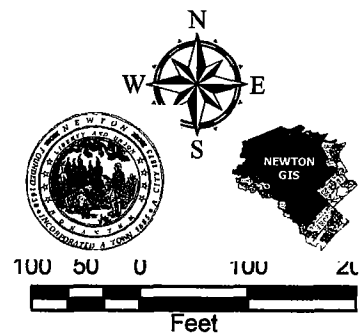
MAP DATE: December 21, 2007



Zoning **105 Rumford Ave** **City of Newton**

Legend

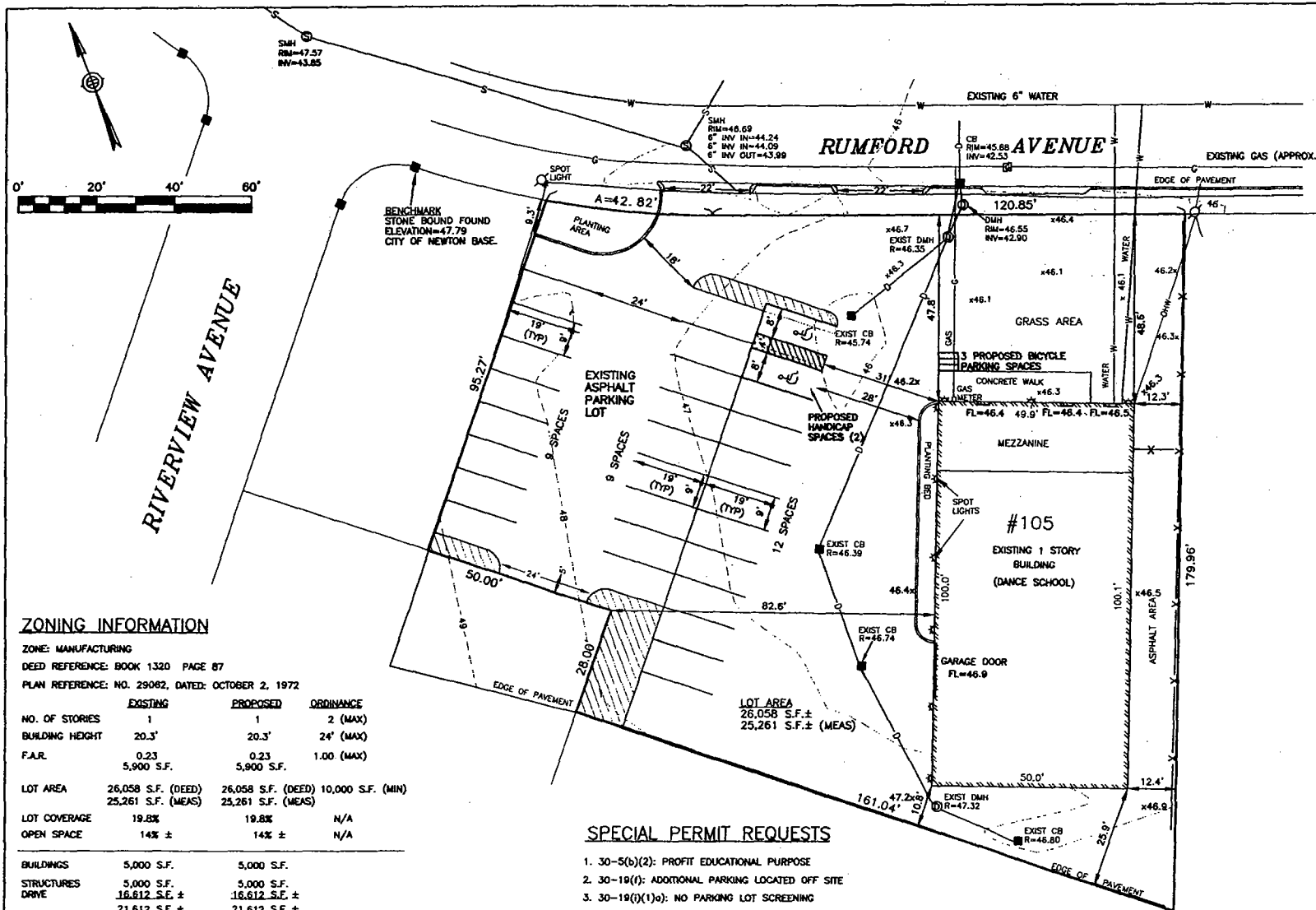
- House Numbers
- Single Residence 1
- Single Residence 2
- Single Residence 3
- Business 1
- Business 2
- Business 4
- Business 5
- Limited Manufacturing
- Manufacturing
- Multi-Residence 1
- Multi-Residence 2
- Multi-Residence 3
- Multi-Residence 4
- Mixed Use 1
- Mixed Use 2
- OS/Rec.
- Public Use



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee its accuracy or nor approve applications based solely on GIS data. Applicants for city permits must inquire of the relevant city department for applicable requirements.

City of Newton
 Mayor - David B. Cohen
 GIS Administrator - Douglas Greenfield

MAP DATE: December 21, 2007



ZONING INFORMATION

ZONE: MANUFACTURING

DEED REFERENCE: BOOK 1320 PAGE 87

PLAN REFERENCE: NO. 29082, DATED: OCTOBER 2, 1972

	EXISTING	PROPOSED	ORDINANCE
NO. OF STORIES	1	1	2 (MAX)
BUILDING HEIGHT	20.3'	20.3'	24' (MAX)
F.A.R.	0.23	0.23	1.00 (MAX)
	5,900 S.F.	5,900 S.F.	

LOT AREA	26,058 S.F. (DEED)	26,058 S.F. (DEED)	10,000 S.F. (MIN)
	25,261 S.F. (MEAS)	25,261 S.F. (MEAS)	

LOT COVERAGE	19.8%	19.8%	N/A
OPEN SPACE	14% ±	14% ±	N/A

BUILDINGS	5,000 S.F.	5,000 S.F.
STRUCTURES	5,000 S.F.	5,000 S.F.
DRIVE	16,612 S.F. ±	16,612 S.F. ±
	21,612 S.F. ±	21,612 S.F. ±

NOTES: 1. ZONING COMPLIANCE DETERMINED BY MUNICIPALITY.
2. AREAS FOR F.A.R. CALCULATION BASED ON LANDLORD'S PLAN.

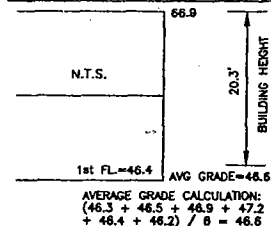
PARKING INFORMATION

	EXISTING	PROPOSED	ORDINANCE
PARKING SPACES	30 SPACES	30 SPACES	OFFICE SPACE: 1 / 250 S.F. FLOOR AREA : 1,800 S.F. / 250 S.F. = 7.2 SPACES SERVICE ESTABL: 1 / 300 S.F. FLOOR AREA : 4,100 S.F. / 300 S.F. = 13.7 SPACES EMPLOYEES: 1 / 3 EMPLOYEES : 8 EMPLOYEES / 3 = 3 SPACES TOTAL = 8 + 14 + 3 = 25 SPACES 26-40 SPACES, 2 HC SPACE
HANDICAP SPACES	0 SPACES	2 SPACES	1 SPACE / 10 SPACES: 30 / 10 = 3 SPACES
BICYCLE PARKING	0 SPACES	3 SPACES	5% INTERIOR PARKING LOT: 9,940 S.F. X 0.05 = 497 S.F.
INTERIOR LANDSCAPING	0 S.F.	0 S.F.	N/A
SITE LANDSCAPING	3,396 S.F. 13.4% OF LOT	3,396 S.F. 13.4% OF LOT	

SPECIAL PERMIT REQUESTS

- 30-5(b)(2): PROFIT EDUCATIONAL PURPOSE
- 30-19(1): ADDITIONAL PARKING LOCATED OFF SITE
- 30-19(1)(1)(a): NO PARKING LOT SCREENING
- 30-19(1)(2): NO INTERIOR LANDSCAPING
- 30-19(1): NO LOADING BAY

BUILDING HEIGHT DETAIL



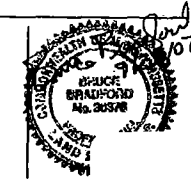
GENERAL NOTES

- ELEVATIONS REFER TO CITY OF NEWTON BASE. BENCHMARK: STONE BOUND FOUND, AT CORNER OF RUMFORD AVENUE AND RIVERVIEW AVENUE, ELEVATION=47.79.
- THE LOCATIONS AND ELEVATIONS OF ALL EXISTING UTILITIES SHALL BE CONSIDERED APPROXIMATE AND MUST BE VERIFIED BY THE CONTRACTOR PRIOR TO ANY CONSTRUCTION.
- IF ANY PART OF THIS DESIGN IS TO BE ALTERED IN ANY WAY, THE DESIGN ENGINEER, AS WELL AS THE APPROVING AUTHORITIES, SHALL BE NOTIFIED IN WRITING BEFORE CONSTRUCTION.
- NO WORK SHALL BE PERFORMED UNTIL THE NECESSARY PERMITS ARE OBTAINED FROM THE CITY OF NEWTON INSPECTIONAL SERVICES DEPARTMENT, ENGINEERING DEPARTMENT AND PUBLIC WORKS DEPARTMENT.

ESTABLISHED 1916
EMB
EVERETT M. BROOKS CO.
SURVEYORS & ENGINEERS
49 LEXINGTON STREET
WEST NEWTON, MA 02466
(617) 527-8780
(617) 392-1578 FAX
info@everettbrooks.com

LEGEND

- UTILITY POLE
- WATER GATE
- ✱ HYDRANT
- GAS GATE
- SEWER MANHOLE
- DRAIN MANHOLE
- CATCH BASIN
- 71.4 X SPOT ELEVATION
- 71 — PROPOSED CONTOUR
- 71 --- EXISTING CONTOUR
- D — DRAIN LINE
- W — WATER LINE
- S — SEWER LINE
- G — GAS LINE
- X — FENCE
- TREE LINE — TREE LINE
- STONEWALL — STONEWALL
- TREE
- ✱ LIGHT POLE
- ▶ GROUND LIGHT
- HANDICAP SPACE
- SIGN — SIGN
- TBR TO BE REMOVED



PLAN OF LAND
NEWTON, MA
105 RUMFORD AVENUE
PROPOSED CONDITIONS

SCALE: 1 IN. = 20 FT.
DATE: SEPTEMBER 28, 20
DRAWN: LNP/ES
CHECK:

REVISIONS:

PROJECT NO. 22703

ATTACHMENT E